

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

LIONEL R. BEARD,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS, *et al.*,

Defendants.

Case No. 3:16-cv-01209-JPG-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on the Government's motion to vacate the judgment. (ECF No. 61.) Because the Government filed their motion 29 days after the entry of judgment, Federal Rule of Civil Procedure 60(b) applies—the deadline for a Rule 59(e) motion is 28 days. Regardless, the Government correctly notes that their motion for summary judgment on the exhaustion of administrative remedies issue in this case should have only applied to the defendant United States of America, and not to defendants Humphries and Falmier. Accordingly, the Court **GRANTS** the Government's motion to vacate (ECF No. 61); **VACATES** both its prior Memorandum & Order and the final judgment in this case (ECF No. 59, 60); **RE-OPENS** this case; and **RE-INSTATES** Beard's motion regarding interrogatories and production of documents (ECF No. 57.)

IT IS SO ORDERED.

DATED: AUGUST 28, 2018

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE